IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

WP(C).No. 21627 of 2006(Y)

PETITIONER:

J.G. PRAKASH, KOTTIL VEEDU,
MEPPAYUR P.O., KOZHIKODE DISTRICT.

BY ADV. SMT.S.MUMTAZ

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
ITS SECRETARY TO CO-OPERATIVE DEPARTMENT
THIRUVANANTHAPURAM.

2. THE SALE OFFICER CUM SENIOR INSPECTOR
KERALA STATE CO-OPERATIAVE HOUSING
FEDERATION LTD., KOZHIKODE.

3. MEPPAYUR CO-OPERATIVE HOUSING
SOCIETY, KOZHIKODE, NO.D.1932.

BY ADV. SRI.N.L.KRISHNAMOORTHY(R3)
SMT.SATHYA SHREEPRIYA
BY SENIOR GOVT. PLEADER SRI.P.K.RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M. JAMES, J.

W.P.(C) No. 21627 of 2006

Dated this the 12th December, 2006.

J U D G M E N T

The writ petitioner is a defaulter. The award was passed by the Joint Registrar in A.R.C.No.160/2000 holding that the principal amount of Rs.2,70,123/= with interest at the rate of 20.75% was due to the 3rd respondent.

2. The writ petitioner was before this Court preferring O.P.No.32926/2002. As per the judgment dated 8.11.2002, this Court directed the writ petitioner to approach the 3rd respondent for an one time settlement, on or before 15.11.2002. The execution proceedings were directed to be kept in abeyance, on condition of payment of Rs.25,000/=.

3. The learned counsel appearing for the 3rd respondent submit that no amount had been paid, and the direction in the writ petition was not complied with, despite the request for one time settlement, that was pending and allowed by the 3rd respondent. Thereafter, the 3rd respondent had filed E.P.No.74/2005 before the Munsiff's Court, Payyoli. However, as the pecuniary limit had

increased, with the passing of the time, the said Execution petition before the Munsiff's Court was closed, and another Execution Petition, E.P.No.57/2005, was filed before the Sub Court, Quilandy, and the same is pending. It is at this stage, the present writ petition is filed by the petitioner.

4. I have heard the arguments advanced by the counsel for the writ petitioner, as well as the counsel for the 3rd respondent. Because of the conduct of the writ petitioner, no leniency need be shown. However, as the writ petitioner has remitted an amount of Rs.25,000/=, when the writ petition came up for consideration, a stay was granted.

5. Considering the circumstances of this case, I dispose of the writ petition, directing the writ petitioner to an amount of Rs.50,000/= on or before 30.12.2006, and file a fresh application, within 10 days from today, requesting for an one time settlement before the 3rd respondent. On receipt of the representation, the 3rd respondent shall dispose of the same, on merit, after hearing the petitioner, and fixing the balance amount due from the petitioner, as per the conditions contained in Circular No.27/2006 dated 29.6.2006,

and extending the benefits contained thereunder. Till such orders are passed, as stated above, proceedings initiated against the petitioner, in E.P.No.57/2005 by the Sub Court, Quilandy, shall be kept in abeyance.

6. However, I make it clear that in case of any violation of any of the conditions that would be passed by the 3rd respondent for one time settlement, the Execution Petition will stand revived, and the 3rd respondent is at liberty to proceed with the same.

J.M. JAMES,
JUDGE

nj.